

SENATE BILL No. 120

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-14-41.

Synopsis: Family burial plots. Allows for the termination of the status of a burial plot as a family burial plot. Provides that family members terminating the status of a family burial plot may designate certain family members as the new owners of rights to the burial plot.

Effective: July 1, 2004.

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January 6, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 120

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-14-41-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Upon the death of
3 the record owner of the burial rights in a burial plot, the burial plot
4 shall be held as the family burial plot of the deceased owner, if:

5 (1) the remains of the record owner have been interred, entombed,
6 inurned, or disposed of;

7 (2) the record owner did not dispose of the burial rights by a
8 specific devise in the owner's last will and testament or by a
9 written designation or transfer of ownership recorded with the
10 cemetery under IC 23-14-42; and

11 (3) there is at least one (1) interment, entombment, or inurnment
12 in the burial plot.

13 **However, the status of the burial plot as a family burial plot may**
14 **be terminated as provided in section 7 of this chapter.**

15 SECTION 2. IC 23-14-41-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A:

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(1) surviving spouse; or
 (2) parent, child, or heir;
 of the deceased record owner of a family burial plot who has a right of interment, entombment, or inurnment in the plot may waive that right in favor of another relative or spouse of the deceased record owner through a written instrument that is recorded with the cemetery.

(b) After a written waiver is recorded under subsection (a), ~~the body of~~ the individual in whose favor the waiver is made:

(1) possesses the burial right to a burial space in the family burial plot; and

(2) may be interred, entombed, or inurned in the family burial plot.

(c) An individual in whose favor a burial right in a family burial plot is waived under subsection (a) may waive the burial right by means of a written instrument that designates another relative of the deceased record owner as described in subsection (a).

SECTION 3. IC 23-14-41-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) An affidavit that sets forth:

(1) the fact of the death of the record owner of the burial rights in a family burial plot; and

(2) the name of the individual or individuals who are entitled to use the family burial plot in accordance with this chapter;

is complete authority to the cemetery to permit the use of the unoccupied portions of the family burial plot by the individual or individuals who are shown by the affidavit to be entitled to use the family burial plot.

(b) An affidavit described in subsection (a) is voided by the termination of the status of a burial plot as a family burial plot under section 7 of this chapter.

SECTION 4. IC 23-14-41-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) **The status of a burial plot as a family burial plot may be terminated as provided in this section if the family burial plot contains not more than four (4) unused burial spaces.**

(b) The status of a burial plot as a family burial plot is terminated after:

(1) each individual, or the individual's legal representative, who possesses a burial right in the family burial plot executes and records with the cemetery an affidavit that meets the requirements of subsection (c); and

(2) the cemetery records the new record owner of the burial

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rights in each burial space in the burial plot as specified on
the affidavit recorded under subdivision (1).

(c) An affidavit described in subsection (b) must meet the
following requirements:

(1) The affidavit documents the intent of the individual:

(A) to disclaim the individual's possession of the burial
right; and

(B) that the status of the burial plot as a family burial plot
be terminated.

(2) The affidavit specifies for each burial space in the burial
plot:

(A) an individual described in section 5 of this chapter who
possesses a burial right in the family burial plot; or

(B) a relative of the deceased record owner of the family
burial plot;

who will become the new record owner of the burial right.

(3) The affidavit complies with the rules of the cemetery
owner.

(d) If more than one (1) affidavit is executed under this section,
all affidavits must specify for each burial space in the burial plot
the same individual as the new record owner of the burial right.

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